IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1512 OF 2005

Sallu @ Suleman Naeem Lala Khan ..Applicant.

V/s

The State of Maharashtra ..Respondent

Smt. Anjali Patil for the applicant.
Mr. A.S. Shitole for the State.

CORAM: V.M.KANADE,J.

DATE: 28th March, 2005

P.C.:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. Applicant is convicted by the Trial Court for having committed an offence under section 376 of the Indian Penal Code and sentenced him to suffer R.I. for 10 years.

3. Prosecution case is that the prosecutrix had gone to the toilet. The accused entered the toilet and committed rape on her.

4. It is an admitted position that it was very dark in the toilet and that there was no light. She had narrated the incident after one day to her husband.

The learned Counsel for the applicant has submitted that though in the FIR the prosecutrix has named the accused, in her cross-examination in para 14, she has admitted that she did not know the name of the offender or where he was residing. She has further admitted that it was very dark during the incident. Again in para 16, she has admitted that she did not know the address of the accused when she lodged the complaint nor did she give description of the accused in her complaint. The learned Counsel for the applicant invited my attention to the evidence of doctor who had examined the prosecutrix. In cross-examination, the doctor has admitted that the patient did not give any name of the offender and that there was no trace of dry semen on her private part. In para 4 of the evidence, P.W. 12 - doctor has stated that she could not give any positive finding whether the patient had been raped or not.

5. Considering the above fact and circumstances of the case, this is a fit case for grant of bail. Applicant be released on bail in the sum of Rs 5000/- with one or two sureties in the like amount. Applicant, however, shall report to Pawai Police Station. Applicant, however, shall report to Pawai Police Station once in a week.

6. Application is disposed of in the above terms.

V.M. KANADE, J.